

REMARKS

Claims 1, 11, and 12 are amended herein without prejudice and without acquiescence, finding support in the original claims. Claim 4 is amended to correct an inadvertent typographical error. No new matter has been entered herein.

I. Issues Under 35 USC § 102(b)

Claims 1, 2, 5-9, and 11-16 are rejected under 35 USC § 102(b) as being anticipated by Thomas et al. (WO 99/55827; “Thomas”).

Claims 1, 11 and 12 are amended herein to focus the claims on devices having two or more flow paths. Thomas fails to teach having two or more flow paths that share a *common* porous bed. Applicants respectfully request withdrawal of the rejection.

II. Issues Under 35 USC § 103(a)

Claims 3, 4, and 17 are rejected under 35 USC § 103(a) as being unpatentable over Thomas as applied to claims 1 and 12 and further in view of U.S. Patent No. 6,632,655 (“Mehta”).

Obviousness requires a suggestion of all the elements in a claim (*CFMT, Inc. v. Yieldup Int’l Corp.*, 349 F.3d 1333, 1342 [68 USPQ2d 1940] (Fed. Cir. 2003)) and “a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 [82 USPQ2d 1385] (2007). Applicants assert that all elements of the submitted claims are not taught or suggested therein, nor would the skilled artisan find a reason to configure the device of Thomas or a device as in a combination of Thomas and Mehta to achieve the claimed invention having multiple flow paths having a common porous bed.

The feature of the newly amended claims of the present invention enables the possibility to pack the two porous beds independently of each other because there are separate particle introduction channels for each one of the porous beds. In the device disclosed by Thomas, if one would want to pack the two chambers with particles of two separate types, both chambers would have to be packed through the same introduction

channel, and therefore one would obtain a mixture of both particle types in both chambers – which would be undesirable. It is well-settled case law that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The present invention achieves advantages lacking in Thomas, Mehta, or a combination thereof, by being configured to be able to pack the two porous beds independently of each other through different introduction channels. For example, in one embodiment of the device, a sample passes through both porous beds and unwanted components are removed in the porous bed positioned most upstream, and the analyte(s) is/are captured and detected in the porous bed positioned downstream. In such a situation, the present invention enables washing of the downstream porous bed used for detection, without passing the washing fluid through the upstream porous bed. This is an advantage, as it enables washing of the downstream porous bed used for detection without leaking out unwanted components from the upstream porous bed. In another embodiment of the present invention, a label used for detection of the analyte can be introduced to the downstream porous bed used for detection without passing through the upstream porous bed – thus, unwanted losses of detection label in the upstream porous bed can be avoided.

Applicants assert that there is no teaching, or suggestion, or motivation in the cited references leading a person skilled in the art to the present invention, as no such features are discussed in any of the cited references and the disadvantage of having only one flow path and no common porous bed for multiple paths is not even recognized by either reference or the combination thereof. Applicants therefore submit that the present invention is inventive over the cited references.

III. Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response other than that submitted herewith. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No.

HO-P02936US1 from which the undersigned is authorized to draw.

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Respectfully submitted,

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